

By: Zedler

H.B. No. 4269

A BILL TO BE ENTITLED

AN ACT

relating to the drug testing of certain persons seeking and receiving financial assistance or supplemental nutrition assistance benefits.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. DRUG SCREENING AND TESTING OF CERTAIN TANF APPLICANTS  
AND RECIPIENTS

SECTION 1.01. Subchapter B, Chapter 31, Human Resources Code, is amended by adding Section 31.0321 to read as follows:

Sec. 31.0321. DRUG SCREENING AND TESTING; ELIGIBILITY. (a)

In this section:

(1) "Commission" means the Health and Human Services Commission.

(2) "Controlled substance" and "marihuana" have the meanings assigned by Chapter 481, Health and Safety Code.

(b) Except as provided in Subsections (f) and (g):

(1) each adult applicant for financial assistance benefits, including an applicant applying solely on behalf of a child, who initially applies for those benefits or who applies for the continuation of those benefits must submit to a marihuana and controlled substance use screening assessment; and

(2) each minor parent who is the head of household must submit to a marihuana and controlled substance use screening assessment on the initial application for financial assistance

1 benefits and on any application for the continuation of those  
2 benefits.

3 (c) A person whose marihuana and controlled substance use  
4 screening assessment conducted under this section indicates good  
5 cause to suspect the person of the use of marihuana, other than  
6 low-THC cannabis authorized by Chapter 169, Occupations Code, or  
7 use of a controlled substance not prescribed for the person by a  
8 health care practitioner shall submit to a drug test to establish  
9 the eligibility of the person and the person's family for financial  
10 assistance benefits.

11 (d) Except as provided in Subsection (e), a person whose  
12 drug test conducted under this section indicates the presence in  
13 the person's body of marihuana, other than low-THC cannabis  
14 authorized by Chapter 169, Occupations Code, or use of a controlled  
15 substance not prescribed for the person by a health care  
16 practitioner is ineligible for financial assistance benefits for  
17 the person and the person's family for a period of 12 months  
18 beginning on the first day of the month after the month in which the  
19 drug test was administered.

20 (e) A person who is denied eligibility for financial  
21 assistance benefits because of the results of a drug test conducted  
22 under this section may reapply for financial assistance benefits  
23 six months after the first day of the month after the month in which  
24 the drug test was administered if the person provides proof of the  
25 person's successful completion of or current enrollment in a  
26 substance abuse treatment program. A person reapplying for  
27 financial assistance benefits must submit to a drug test as

1 required by Subsection (f), regardless of whether the person is  
2 continuing to receive substance abuse treatment.

3 (f) A person who is denied eligibility for financial  
4 assistance benefits because of the results of a drug test conducted  
5 under this section must submit to a drug test, without first  
6 submitting to a marihuana and controlled substance use screening  
7 assessment, at the time of any reapplication for financial  
8 assistance benefits and on any application for the continuation of  
9 those benefits.

10 (g) A person who has been convicted of a felony drug offense  
11 must submit to a drug test, without first submitting to a marihuana  
12 and controlled substance use screening assessment, at the time of  
13 an initial application for financial assistance benefits and on any  
14 application for the continuation of those benefits.

15 (h) If a person is denied eligibility for financial  
16 assistance benefits three times because of the results of a drug  
17 test conducted under this section, the person and the person's  
18 family are permanently ineligible for those benefits.

19 (i) Before denying eligibility for financial assistance  
20 benefits under this section, the commission must:

21 (1) notify the person who submitted to a drug test of  
22 the results of the test and the commission's proposed determination  
23 of ineligibility; and

24 (2) confirm the results of the drug test through a  
25 second drug test or other appropriate method.

26 (j) The commission shall:

27 (1) use the most efficient and cost-effective

1 marihuana and controlled substance use screening assessment tool  
2 that the commission and the Department of State Health Services can  
3 develop based on validated marihuana and controlled substance use  
4 screening assessment tools; and

5 (2) pay the cost of any marihuana and controlled  
6 substance use screening assessment or drug test administered under  
7 this section out of the federal Temporary Assistance for Needy  
8 Families block grant funds.

9 (k) The commission shall report to the Department of Family  
10 and Protective Services for use in an investigation conducted under  
11 Chapter 261, Family Code, if applicable, a person whose drug test  
12 conducted under this section indicates the presence in the person's  
13 body of marihuana, other than low-THC cannabis authorized by  
14 Chapter 169, Occupations Code, or a controlled substance not  
15 prescribed for the person by a health care practitioner.

16 (1) The executive commissioner of the commission shall  
17 adopt rules implementing this section.

18 SECTION 1.02. (a) Section 31.0321, Human Resources Code,  
19 as added by this article, applies to:

20 (1) an adult applicant, including an applicant  
21 applying solely on behalf of a child, who initially applies for  
22 financial assistance benefits under Chapter 31, Human Resources  
23 Code, on or after the effective date of this article;

24 (2) a minor parent who is the head of household who  
25 initially applies for financial assistance benefits under Chapter  
26 31, Human Resources Code, on or after the effective date of this  
27 article;



1 behalf of a child, who initially applies for those benefits or who  
2 applies for the continuation of those benefits must submit to a  
3 marihuana and controlled substance use screening assessment; and

4 (2) each minor parent who is the head of household must  
5 submit to a marihuana and controlled substance use screening  
6 assessment on the initial application for supplemental nutrition  
7 assistance benefits and on any application for the continuation of  
8 those benefits.

9 (c) A person whose marihuana and controlled substance use  
10 screening assessment conducted under this section indicates good  
11 cause to suspect the person of the use of marihuana, other than  
12 low-THC cannabis authorized by Chapter 169, Occupations Code, or  
13 use of a controlled substance not prescribed for the person by a  
14 health care practitioner shall submit to a drug test to establish  
15 the eligibility of the person and the person's household for  
16 supplemental nutrition assistance benefits.

17 (d) Except as provided in Subsection (e), a person whose  
18 drug test conducted under this section indicates the presence in  
19 the person's body of a controlled substance not prescribed for the  
20 person by a health care practitioner or marihuana, other than  
21 low-THC cannabis authorized by Chapter 169, Occupations Code, is  
22 ineligible for supplemental nutrition assistance benefits for the  
23 person and the person's household for a period of 12 months  
24 beginning on the first day of the month after the month in which the  
25 drug test was administered.

26 (e) A person who is denied eligibility for supplemental  
27 nutrition assistance benefits because of the results of a drug test

1 conducted under this section may reapply for supplemental nutrition  
2 assistance benefits six months after the first day of the month  
3 after the month in which the drug test was administered if the  
4 person provides proof of the person's successful completion of or  
5 current enrollment in a substance abuse treatment program. A  
6 person reapplying for supplemental nutrition assistance benefits  
7 must submit to a drug test as required by Subsection (f), regardless  
8 of whether the person is continuing to receive substance abuse  
9 treatment.

10 (f) A person who is denied eligibility for supplemental  
11 nutrition assistance benefits because of the results of a drug test  
12 conducted under this section must submit to a drug test, without  
13 first submitting to a marihuana and controlled substance use  
14 screening assessment, at the time of any reapplication for  
15 supplemental nutrition assistance benefits and on any application  
16 for the continuation of those benefits.

17 (g) A person who has been convicted of a felony drug offense  
18 must submit to a drug test, without first submitting to a marihuana  
19 and controlled substance use screening assessment, at the time of  
20 an initial application for supplemental nutrition assistance  
21 benefits and on any application for the continuation of those  
22 benefits.

23 (h) If a person is denied eligibility for supplemental  
24 nutrition assistance benefits three times because of the results of  
25 a drug test conducted under this section, the person and the  
26 person's household are permanently ineligible for those benefits.

27 (i) Before denying eligibility for supplemental nutrition

1 assistance benefits under this section, the department must:

2 (1) notify the person who submitted to a drug test of  
3 the results of the test and the department's proposed determination  
4 of ineligibility; and

5 (2) confirm the results of the drug test through a  
6 second drug test or other appropriate method.

7 (j) The department shall:

8 (1) use the most efficient and cost-effective  
9 marihuana and controlled substance use screening assessment tool  
10 that the department and the Department of State Health Services can  
11 develop based on validated marihuana and controlled substance use  
12 screening assessment tools; and

13 (2) pay the cost of any marihuana and controlled  
14 substance use screening assessment or drug test administered under  
15 this section.

16 (k) The department shall report to the Department of Family  
17 and Protective Services for use in an investigation conducted under  
18 Chapter 261, Family Code, if applicable, a person whose drug test  
19 conducted under this section indicates the presence in the person's  
20 body of marihuana, other than low-THC cannabis authorized by  
21 Chapter 169, Occupations Code, or a controlled substance not  
22 prescribed for the person by a health care practitioner.

23 (l) The executive commissioner shall adopt rules  
24 implementing this section.

25 SECTION 2.02. (a) Section 33.020, Human Resources Code, as  
26 added by this article, applies to:

27 (1) an adult applicant, including an applicant

1 applying solely on behalf of a child, who initially applies for  
2 supplemental nutrition assistance benefits under Chapter 33, Human  
3 Resources Code, on or after the effective date of this article;

4 (2) a minor parent who is the head of household who  
5 initially applies for supplemental nutrition assistance benefits  
6 under Chapter 33, Human Resources Code, on or after the effective  
7 date of this article;

8 (3) an adult applicant, including an applicant  
9 applying solely on behalf of a child, who applies for the  
10 continuation of supplemental nutrition assistance benefits under  
11 Chapter 33, Human Resources Code, on or after the effective date of  
12 this article; and

13 (4) a minor parent who is the head of household who  
14 applies for the continuation of supplemental nutrition assistance  
15 benefits under Chapter 33, Human Resources Code, on or after the  
16 effective date of this article.

17 (b) Except as provided by Subsections (a)(3) and (4) of this  
18 section, an adult applicant, including an applicant applying solely  
19 on behalf of a child, and a minor parent who is the head of household  
20 who applied for supplemental nutrition assistance benefits under  
21 Chapter 33, Human Resources Code, before the effective date of this  
22 article are governed by the law in effect when the person applied  
23 for supplemental nutrition assistance benefits, and that law is  
24 continued in effect for that purpose.

25 ARTICLE 3. FEDERAL AUTHORIZATION AND EFFECTIVE DATE

26 SECTION 3.01. If before implementing any provision of this  
27 Act a state agency determines that a waiver or authorization from a

1 federal agency is necessary for implementation of that provision,  
2 the agency affected by the provision shall request the waiver or  
3 authorization and may delay implementing that provision until the  
4 waiver or authorization is granted.

5 SECTION 3.02. This Act takes effect September 1, 2019.